

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

July 25, 2008

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

HAWAII

**Issuance of Right-of-Entry to the United States Army Corps of Engineers
for its Defense Environmental Restoration Program of the Former
Waikoloa Maneuver Area at Lalamilo, South Kohala, Hawaii, Tax Map
Key: 3rd/ 6-6-002:039**

APPLICANT:

United States of America, Department of the Army, Corps of Engineers, whose
business and mailing address is Honolulu, Fort Shafter, Hawaii 96858-5440.

LEGAL REFERENCE:

Sections 171-55 and 171-11, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of the Former Waikoloa Maneuver Area situated at
Lalamilo, South Kohala, Hawaii, identified by Tax Map Key: 3rd/ 6-6-002:039, as
shown on the attached map labeled Exhibit A.

AREA:

4.473 acres

ZONING:

Land Use Commission:	Agriculture
CZO:	Unplanned

ENCUMBRANCE:

The subject land was set aside to the County of Hawaii under Executive Order No.

1662 for the Puako Rubbish Dump site.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CHARACTER OF USE:

For conducting environmental investigation and response; including surveying and gridding the site; surface survey for unexploded ordnance; subsurface survey for buried ordnance with electromagnetic sensing equipment (no use of heavy equipment); disposal of unexploded ordnance; removal of explosive waste, pollutants, hazardous substances, contaminated soils; containerize waste, and replace with uncontaminated soil; storage of required equipment and supplies; and erect and remove structures within the right-of-entry area.

TERM OF RIGHT-OF-ENTRY:

This right-of-entry is for two years, commencing upon approval by the Board of Land and Natural Resources, and expiring upon its second anniversary, or upon completion of the survey/exploration work, whichever is the sooner.

CONSIDERATION:

Gratis.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 4, "minor alteration in the conditions of land, water, or vegetation," and Exemption Class No. 5 that states, "Permission to enter State lands for the purpose of basic data collection, research, experimental management and resources evaluation activities such as archaeological survey, topographic survey, test borings for soil test, ground cover survey inspection of property for appraisal and development feasibility study purposes."

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Obtain written concurrence from all users of the subject land.

REMARKS:

The United States of America, Department of the Army, Corps of Engineers (USACE), relating to its Defense Environmental Restoration Program/ Formerly Used Defense Sites (DERP/FUDS) Program, requested access over State owned lands to carry out survey, exploratory and ordnance removal work in the area known as the Former Waikoloa Maneuver Area. The former Waikoloa Maneuver Area comprises approximately 123,000 acres located on the northwest portion of the Big Island and is the largest area of clean-up carried out by USACE.

In 1943, the United States Marine Corps used the maneuver area as a training camp for up to 40,000 men. Portions of the maneuver area were used as an artillery firing range where live ammunition and other explosives were employed, with remaining acreage utilized for troop maneuvers and encampment. Approximately 467 acres were used for tents and Quonset huts referred to as "Camp Tarawa". The Marines vacated the premises on June 30, 1946; the U.S. Government surrendered its rights to the site. At least two organized ordnance clearance efforts were performed in 1946 and 1954. The current survey and exploratory work which is consistent with the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) is undertaken whenever such "imminent and substantial endangerment" is found at a facility or site that is under the jurisdiction of the Secretary of Defense and is owned by, leased to, or otherwise possessed by the United States at the time of actions leading to contamination. The cost for ordnance clean up is estimated to run \$800 million to \$900 million.

In 1997, the Army Corps of Engineers conducted Phase I of its Project (No. H9H1035901), contracting Earth Tech, Inc. to survey over 521 acres within the Former Waikoloa Maneuver Area. In November 2000, Phase II of the Project (No. H9H1035902) commenced, which covered an additional 16,499 acres. By letter dated January 31, 2004, USACE requested access to the subject land and other parcels to conduct Phase III of its clean-up. The Board approved a right-of-entry for these parcels at its meeting of April 8, 2004, Item D-4, for a period of one year expiring on April 7, 2005.

By letter dated June 17, 2008, the Office of the Corporation Counsel, County of Hawaii, requested a right-of-entry on behalf of USACE onto State lands set aside to the County of Hawaii under Executive Order No. 1662. The purpose of the request is to allow USACE to continue with its environmental investigation relating to the

DERP/FUDS Program. Activities upon the State owned lands will include surveying and gridding the site; surface survey for unexploded ordnance; subsurface survey for buried ordnance with electromagnetic sensing equipment (no use of heavy equipment); disposal of unexploded ordnance; removal of explosive waste, pollutants, hazardous substances, contaminated soils; containerize waste, and replace with uncontaminated soil; storage of required equipment and supplies; and erect and remove structures on the land. The work will be performed over the area known as the Puako Rubbish Dump/Transfer Station. This portion of the restoration work is over portion of State lands situated at Lalamilo, South Kohala, Hawaii, identified by Tax Map Key: 3rd/ 6-6-002:039. The right-of-entry is being requested over a twenty-four month period.

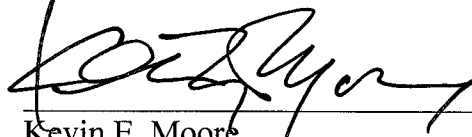
RECOMMENDATION:

That the Board, subject to the Applicant fulfilling the Applicant Requirements above, authorize the issuance of a right-of-entry permit to the United States of America, Department of the Army, Corps of Engineers. The purpose of the right-of-entry is to allow USACE to continue with its DERP/FUDS restoration project, which will include surveying and gridding the site; surface survey for unexploded ordnance; subsurface survey for buried ordnance with electromagnetic sensing equipment (no use of heavy equipment); disposal of unexploded ordnance; removal of explosive waste, pollutants, hazardous substances, contaminated soils; containerize waste, and replace with uncontaminated soil; storage of required equipment and supplies; and erect and remove structures on the land. This permit, covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein, is further subject to the following:

1. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time;
2. The term of this right-of-entry shall be for two (2) years, commencing on the date of approval by the Board of Land and Natural Resources and expiring on its second anniversary date, or upon completion of the survey/investigation, whichever is the sooner. Extensions may be granted by the Chairperson, as required;
3. Review and approval by the Department of the Attorney General; and

4. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Kevin E. Moore
District Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson





EXHIBIT A